

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**IRIS ORTIZ a/k/a MELISSA SAN MIGUEL** )  
Claimant )

VS. )

**NATIONAL BEEF PACKING CO.** )  
Respondent )

Docket No. **241,526**

AND )

**WAUSAU INSURANCE CO.** )  
Insurance Carrier )

**ORDER**

Respondent appealed Administrative Law Judge Pamela J. Fuller's award dated April 16, 2001. The Board heard oral argument on October 2, 2001, by teleconference.

**APPEARANCES**

Claimant appeared by her attorney, Stanley R. Ausemus. Respondent and its insurance carrier appeared by their attorney, Shirla R. McQueen.

**RECORD & STIPULATIONS**

The Board has considered the record and adopted the stipulations listed in the Award.

**ISSUES**

The Administrative Law Judge awarded claimant an 8 percent permanent partial disability to the whole body. The issue raised on review by the respondent is the nature and extent of disability. Respondent contends the claimant did not sustain any permanent impairment as a result of her work-related injury. Respondent further contends that any permanent impairment claimant now suffers was caused by her work activities after she

left her employment with respondent. Conversely, the claimant contends the Administrative Law Judge's decision should be affirmed.

#### **FINDINGS OF FACT& CONCLUSIONS OF LAW**

Having reviewed the entire evidentiary record filed herein, and the stipulations of the parties, the Board finds the Administrative Law Judge's Award should be affirmed.

The Administrative Law Judge's Award contains detailed findings of fact and conclusions of law and it is not necessary that those findings be repeated herein. The Board agrees with and adopts the findings of fact and conclusions of law set forth by the Administrative Law Judge in the Award.

The issue raised on review is the nature and extent of disability, if any, the claimant now suffers as a result of her work-related injury and subsequent surgery. Respondent notes the treating surgeon, Dr. Bigler, opined claimant had no permanent impairment of function after her surgery. Respondent then argues claimant's continued complaints after surgery should be discounted because of claimant's history of untruthful statements. Respondent concludes claimant's work activities after she was terminated from employment with the respondent are the cause of any permanent impairment of function claimant now suffers.

Although it is undisputed claimant worked for respondent under an assumed name and social security number, it is equally undisputed that as a result of her repetitive job duties working for respondent, the claimant developed bilateral carpal tunnel syndrome which ultimately resulted in surgical bilateral carpal tunnel release.

The claimant admitted she was not truthful in many instances, however, she was adamant the pain in her hands and wrists did not improve after the bilateral carpal tunnel surgery. Although Dr. Bigler ultimately discounted the claimant's continued complaints, his records corroborate the claimant's contention that after her surgery she continued to complain of problems with her hands and wrists.

The respondent next argues that after surgery the claimant had improved and her condition worsened because of her work activities following her termination from employment with respondent. The claimant did some light housecleaning and then obtained employment with Seaboard. Respondent contends claimant's condition worsened because of her repetitive work activities with Seaboard. Claimant admits she continued to experience pain in her hands while working at Seaboard, but she did not work at the job long enough to cause a permanent aggravation.

The claimant only worked a few weeks at Seaboard. The court ordered independent medical examiner, Dr. Veenis, when provided the history of claimant's work

activities after her surgery, specifically attributed her problems to her employment with respondent and noted her subsequent employment was not of sufficient duration to cause her current problems.

Lastly, the evidence regarding the claimant's functional impairment ranged from Dr. Bigler's opinion the claimant had no permanent impairment of function to the opinions of both Drs. Brown and Veenis the claimant had an 8 percent permanent partial impairment of function to the whole body. The Administrative Law Judge's reasoning and determination that Dr. Veenis' opinion is the most persuasive is adopted by the Board.

**AWARD**

**WHEREFORE**, it is the finding, decision and order of the Board that the Award of Administrative Law Judge Pamela J. Fuller dated April 16, 2001, is affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of October 2001.

\_\_\_\_\_  
BOARD MEMBER

\_\_\_\_\_  
BOARD MEMBER

\_\_\_\_\_  
BOARD MEMBER

c: Stanley R. Ausemus, Attorney for Claimant  
Shirla R. McQueen, Attorney for Respondent and its Insurance Carrier  
Pamela J. Fuller, Administrative Law Judge  
Philip S. Harness, Workers Compensation Director